

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1793.01</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Jane Taylor-Holmes</b>
<b>DATE OF COMPLAINT:</b>	<b>August 29, 2001</b>
<b>DATE OF REPORT:</b>	<b>September 18, 2001</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>no</b>
<b>DATE OF CLOSURE:</b>	<b>October 29, 2001</b>

**COMPLAINT ISSUES:**

Whether the Mill Creek Community School Corporation and the Old National Trail Special Services violated:

511 IAC 7-21-3(c) with regard to the school's alleged failure to provide an instructional day for a student with a disability of the same length as is provided for nondisabled secondary students in the same school building.

On September 5, 2001, the Director was informed of two additional issues to be investigated. Those issues are:

Whether the Mill Creek Community School Corporation and the Old National Trail Special Services violated:

511 IAC 7-21-7(c) with regard to the school's alleged failure to include a written student-specific justification for the excess transit time in the student's educational record.

511 IAC 7-27-9(b) with regard to the school's alleged failure to make available to the student who has a disability nonacademic and extracurricular activities that are made available to nondisabled students, specifically, failing to allow the student to attend the homecoming parade on August 31, 2001.

**FINDINGS OF FACT:**

1. The student (the "Student") is 15 years old and is in the ninth grade at a middle school (the "School") in a county outside the Student's home school and county. The Student is eligible for special education and related services as a student with a mild mental handicap ("MiMH").
2. The complainant (the "Complainant") reported that the bus picks up the Student in the morning at 7:00 a.m. The Student then arrives at the School at 8:30 a.m. The Student is picked up in the afternoon at 2:10 p.m. and arrives home at 3:30 p.m.
3. The Director reported that the Student arrives at School at approximately 8:30 a.m. The bus picks up the Student at approximately 2:10 p.m. in the afternoon. The Director reported that a plan has been implemented that "when successfully practiced a few times should allow the student to get to the school in morning at the proper start time." The Director also reported that the transportation department will be implementing a plan for the afternoon pick up and that "the desired outcome of

this plan is to pick the student up at [the School's] dismissal time."

4. The instructional day begins at 8:15 a.m. School is dismissed at 2:48 p.m. The Student's *individualized education program* (the "IEP") does not require a shortened instructional day.
5. As of September 14, 2001, the Complainant reported that there have been no changes with the Student's transportation.
6. The Director reported that there is no written student-specific justification for the excess transit time in the Student's educational record.
7. The School's homecoming parade was during the afternoon of the August 31, 2001, instructional day. Because the Student was picked up early for the bus ride home, the Student was unable to participate in the homecoming parade activities.
8. The Director disseminated a statement (the "Assurance Statement") dated September 11, 2001, quoting 511 IAC 7-27-9(b) regarding the requirement to make available to students with disabilities the variety of educational programs and services that are made available to nondisabled students served by the public agency. Those who received a copy of the Assurance Statement included the transportation department of the Student's home school corporation, the Student's teacher, and the transportation department of the school corporation where the Student attends the School.

#### **CONCLUSIONS:**

1. Findings of Fact #2, #3, #4, and #5 indicate that the Student's instructional day is not the same length as that provided for nondisabled students at the School. A violation of 511 IAC 7-21-3(c) has occurred.
2. Finding of Fact #6 indicates that there is no written student-specific justification for the excess travel time in the Student's educational record. A violation of 511 IAC 7-21-7(c) has occurred.
3. Finding of Fact #7 indicates that because the Student's instructional day was unilaterally shortened by the School, the Student was unable to participate in the homecoming parade activities. Although Finding of Fact #8 indicates that the Director disseminated an Assurance Statement during the course of the investigation regarding the requirement to make nonacademic and extracurricular activities available to students with disabilities, a violation of 511 IAC 7-27-9(b) occurred.

**The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

#### **CORRECTIVE ACTION:**

The Mill Creek Community School Corporation and the Old National Trail Special Services shall:

- 1.a. immediately begin providing the Student the same length of instructional day as that provided to nondisabled students at the School. Submit a statement signed by the Student's teacher by September 28, 2001, that the Student arrives at the School on time and leaves at the end of the instructional day.
- 1.b. convene the case conference committee (the "CCC") to determine the amount of compensatory services for the time lost due to each shortened instructional day that the Student attended at the

School this instructional year. A copy of the revised *IEP* and *case conference committee* (the "CCC") *report* shall be submitted no later than October 26, 2001, to the Division identifying the amount of and method for providing compensatory services.

- 2.a. immediately reconfigure the transportation routes in order for the Student to begin and end the instructional day with the nondisabled students at the School. A copy of the reconfigured transportation route for the Student shall be submitted to the Division no later than October 12, 2001.
- 2.b. discuss at the CCC meeting (Corrective Action #1.b.), after reconfiguring the transportation routes (Corrective Action #2.a.), whether the Student's transportation time continues to exceed the transit time of nondisabled students within the same school corporation. If the Student's transit time continues to exceed that of nondisabled students in the same school corporation, the CCC shall include a written student-specific justification for excess transportation time in the Student's revised *IEP*. A copy of the *IEP* and *CCC Report* indicating that transportation was discussed shall be submitted to the Division no later than October 26, 2001.
3. submit a copy of the assurance statement (Finding of Fact #8) that is signed by the transportation directors of both the home school corporation and the school corporation where the Student attends school to the Division no later than October 26, 2001.

DATE REPORT COMPLETED: September 18, 2001